

## Department of Defense

209.406-3

### **209.405-2 Restrictions on subcontracting.**

(a) The contracting officer shall not consent to any subcontract with a firm, or a subsidiary of a firm, that is identified by the Secretary of Defense as being owned or controlled by the government of a terrorist country unless the agency head states in writing the compelling reasons for the subcontract.

[63 FR 14837, Mar. 27, 1998]

### **209.406 Debarment.**

#### **209.406-1 General.**

(a)(i) When the debarring official decides that debarment is not necessary, the official may require the contractor to enter into a written agreement which includes—

(A) A requirement for the contractor to establish, if not already established, and to maintain the standards of conduct and internal control systems prescribed by subpart 203.70; and

(B) Other requirements the debarring official considers appropriate.

(ii) Before the debarring official decides not to suspend or debar in the case of an indictment or conviction for a felony, the debarring official must determine that the contractor has addressed adequately the circumstances that gave rise to the misconduct, and that appropriate standards of ethics and integrity are in place and are working.

[57 FR 14992, Apr. 23, 1992]

#### **209.406-2 Causes for debarment.**

(a) Any person shall be considered for debarment if criminally convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that was not made in America (10 U.S.C. 2410f).

(i) The debarring official will make a determination concerning debarment not later than 90 days after determining that a person has been so convicted.

(ii) In cases where the debarring official decides not to debar, the debarring official will report that decision to the Director of Defense Procurement who

will notify Congress within 30 days after the decision is made.

[58 FR 28464, May 13, 1993]

### **209.406-3 Procedures.**

(a) *Investigation and referral.* (i) The contracting officer shall prepare a report containing the information required by paragraph (a)(ii) of this subsection when—

(A) A contractor has committed, or is suspected of having committed, any of the acts described in FAR 9.406-2 and 9.407-2;

(B) FAR 49.106 requires a report;

(C) Part 203 requires a report;

(D) The Government suspects a contractor of violating the Buy American Act (see FAR 25.204); or

(E) The Government suspects a contractor of attempting to evade the prohibitions of debarment or suspension by changes of address, multiple addresses, formation of new companies, or by other devices.

(ii) Include the following information, when available, in the report required by paragraph (a)(i) of this subsection—

(A) Name, address, and telephone number of the point of contact for the activity making the report;

(B) Name, contractor and Government entity (CAGE) code, and address of the contractor;

(C) Name and addresses of the members of the board, principal officers, partners, owners, and managers;

(D) Name and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship;

(E) For each contract affected by the conduct being reported—

(1) The contract number;

(2) All office identifying numbers or symbols;

(3) Description of supplies or services;

(4) The amount;

(5) The percentage of completion;

(6) The amount paid the contractor;

(7) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(8) The amount due the contractor;

(F) For any other contracts outstanding with the contractor or any of its affiliates—

(1) The contract number;